

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16318 of 2007

14.8.2007

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Between:

Smt.B.Vijaya Laxmi, W/o.B.Chakrapani

And others

...Petitioners

And

The District Collector, Ranga Reddy District

And others

...Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16318 of 2007

ORDER:

The petitioners, who are thirteen in number, filed the instant writ petition seeking a writ of Mandamus declaring the action of the respondents in evicting petitioners without following due process of law as illegal and arbitrary.

It is the case of the petitioners that they purchased small extents of house sites admeasuring 200 Sq.yards comprised in survey No.213 situated at Gagilapur village of Qutbullapur Mandal in Ranga Reddy District, from Chouti Narsamma and Chouti Balamma, under registered documents in 2004 and 2006. It is also their further case that they are landless poor persons. They constructed houses, which are assessed to Gram Panchayat tax. On 26.6.2007 at about 2.00 pm, respondents along with subordinate staff came to the area and informed that the land was assigned to Chouti Narsamma and Chouti Balamma and that the sales in favour of petitioners are illegal and that the respondents are also tried to demolish houses and take possession without due process of law. Therefore, they filed the instant writ petition.

At the stage of preliminary hearing, on 31.7.2007, learned Assistant Government Pleader for Revenue (General-T) submitted that petitioners purchased land assigned to landless poor persons and that there are no houses in the land and when they were tried to make constructions, they were prevented. In view of this, learned Assistant Government Pleader was directed to file a counter affidavit.

In the counter affidavit filed before this Court, on 10.8.2007, it is stated that an extent of Acs.3.36 gts in survey No.213 was surrendered as ceiling surplus under the provisions of Andhra Pradesh Land

Reforms (Ceiling on Agricultural Holdings) Act, 1976, by M.Prabhakara Rao, and that the same is assigned to Choti Sailu, S/o.Balaiah, in 1981. It is further stated that the land in survey No.214 admeasuring Acs.57.07 gts is classified as Gairan Sarkari (Government land). Out of which, Acs.28.00 was assigned to 24 landless poor persons in 1978. When the petitioners were raising constructions on the land assigned to Choti Sailu, Revenue Authorities prevented construction and that there are no constructions on the land. It is also alleged that all the sale deeds executed by legal heirs of Chouti Sailu are illegal and are not valid.

Learned Counsel for the petitioner has produced photographs to show that the houses with Gram Panchayat numbers were in existence in the area. He submits that even if the land is assigned land without canceling the assignment or issuing notice in Form-I under Rule 3 of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Rules, 2007 (the Rules, for brevity) and without passing orders under Section 4 of Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (the Act, for brevity), respondents cannot dispossess or demolish the houses. **Per contra**, learned Assistant Government Pleader submits that the photographs produced by the petitioners cannot be correlated to the land in survey No.213. He reiterated the other contentions taken in the counter affidavit.

There is no denial that the petitioners purchased land in survey No.213 from Chouti Narsamma and Chouti Balamma, legal heirs of Chouti Sailu. If that be the case, it is always open to the Tahsildar to follow necessary procedure under the Act and Rules and cancel the assignment and resume the land. The procedure contemplated requires issue of notice to the assignee as well as the person in occupation of the assigned land in contravention of the Act and Rules. This was not done. Secondly, there is no specific denial that the petitioners are not in possession of the land. Regarding this aspect of the matter, in the counter affidavit, it is stated as under.

It is respectfully submitted that the original assignee in Sy.No.213 to an extent of Acs.3.36 gts situated at Gagillapur village was Sri Choti Sailu, S/o.Balaiah. As per present pahani for the year 2005-2006 the names of Choti Balaiah, Choti Jeethaiah, Choti Balamma and Choti Narsimha are recorded as pattedars and possessors. The said persons have succeeded to the property by way of succession. **The writ petitioners have purchased the plots from the successors of Sri Choti Sailu and started construction of houses on this land illegal. The same has been stopped. All the sale deeds executed in the assigned land bearing Sy.Nos.213 & 214 of Gagillapur Vilalge have no validity in the eye of law and Gram Panchayat has no jurisdiction to grant permission for**

construction of houses on the Assignment/Govt. Land under the guise of filing the writ petition the petitioner want to make the constructions of the houses.

(emphasis supplied)

When the petitioners were raising constructions, they were stopped. This only means that the possession of the land is with the petitioners. Therefore, even if there is contravention of Section 3(2) of the Act, Tahsildar to take necessary steps under the provisions of the Act and Rules, after issuing notice to the petitioners. Till such exercise is completed, there cannot be any interference with the possession of the petitioners.

The writ petition, with the above observations, is accordingly disposed of. No costs.

(V.V.S.RAO, J)

August 14, 2007

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